

## City of Forest Grove Boards and Commissions Update

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## Citizen Involvement

- The City of Forest Grove has 11 advisory boards, committees and decision-making commissions appointed by the Mayor with the consent of the City Council.
- Each is unique in its size, meeting schedule, and specific function; however, the overall mission is the same: to make Forest Grove “A Place Where Families and Businesses Thrive”.

## Role of the Appointed Official

- Council-appointed groups are directly *responsible to* and *advisory to* the City Council, unless the Council has delegated specific responsibilities to the group for independent actions
- Generally, these groups make recommendations to the City Council on specific issues

# Role of the Appointed Official

- Appointed officials participate in making important decisions regarding how this government will run and therefore are accountable to the public. ***Big responsibility!***
- My role here tonight is to walk you through some of the laws that govern your role with the city

# Overview

- Public Officials and Ethics
- Public Meetings
- Political Activities
- Charter and Council Policies

# Government Ethics

- Do Oregon's government ethics laws apply to me?
  - The policy is “that service as a public official is a public trust, and that, as one safeguard for that trust, the people require all public officials to comply with the [the law]”
  - The law has six parts:
    - **Abuse of office**
    - Reporting requirements
    - **Conflicts of interest**
    - Nepotism
    - The ethics commission
    - **Penalties**

# Government Ethics

- Abuse of Office
  - Public officials may not use or attempt to use their position to obtain financial gain or avoid financial detriment that would not otherwise be available but for holding of the official position.
  - Applies to the public official and “relatives” of the public official

# Government Ethics

- Examples of abuse of office:
  - A library committee member using his role on the Library Committee to lobby the City to award the library janitorial agreement to his sister.
  - Members of the Parks and Recreation Board receive free VIP passes to the local softball tournament (valued at \$200) from the company organizing the event. (*But the company just wants local officials to see the event firsthand! Doesn't matter.*)



# Government Ethics

- What is a conflict of interest?
  - A conflict of interest arises when a decision or recommendation you are making **would or could** result in a financial benefit or detriment to you, your relatives, or a businesses with which either you or your relatives are associated. Conflicts of interest come in two forms – actual conflicts and potential conflicts.
- What is the difference between an actual and potential conflict of interest?
  - An actual conflict of interest arises when any decision or act by you **would** result in a financial benefit or detriment to you, your relatives or an associated business; while a potential conflict arises when a decision or act by you **could** result in such an outcome.

# Government Ethics

- What do I do if I have a conflict?
  - For actual conflicts you must:
    1. publicly announce the conflict; and
    2. refrain from participation in any official action on the issue including **any discussion** of the matter.
  - For potential conflicts you must:
    1. publicly announce the potential conflict every time the issue arises; and
    2. after disclosure you may participate in any official action on the issue, **including discussions and votes**.

# Government Ethics

- Are there exceptions?
  - Yes. The definition of a “business” does not include nonprofits where the associated public official receives no remuneration.
  - Class exception. Seek legal advice prior to relying on this exceptions.
  - Gifts of less than \$50.

# Government Ethics

- Penalties:
  - Civil penalty up to \$5,000
  - Removal from office
  - If the public official benefitted from a violation, he or she may be required to forfeit twice the amount of the profit
  - In rare cases, criminal sanction (bribes, misuse of confidential information for personal financial benefit)

# Open/Public Meetings

- Generally
  - Under ORS 192.660 *et seq.*, elected and appointed officials must meet in public to deliberate and decide matters of public policy.
  - The purpose of the statute is to encourage transparency in government.

## What is a “meeting”?

- Oregon law addresses two issues related to public meetings:
  - All official meetings of a public body must be in public (ORS 192.630(1))
  - All private meetings of a public body are prohibited (ORS 192.630(2))

# Legal Requirements of Public Meetings

- Notice
  - Notice of time and place must be “reasonably calculated” to inform interested persons – usually at least 24 hours in advance.
  - Personal notice must be given to those who have requested it.
  - Notice should address accessibility requirements for the disabled.
  - Principal subjects to be discussed.
    - Specific enough to permit a person to decide if she feels it is necessary to attend.
    - Public body is not precluded from considering additional items during the meeting.

# Legal Requirements of Public Meetings

- Location considerations
  - Must be within jurisdictional boundaries, unless . . .
    - Attending a “training” where no deliberations will occur.
    - Meeting with another governing body.
  - Must be of a sufficient size relative to expected interest in the meeting.
  - Need not be held in a government building, but may not be held in a location where discrimination based on race, creed, color, sex, age, national origin or disability is practiced.
  - Must be accessible to disabled persons.



# Legal Requirements of a Public Meeting

- Voting
  - Votes must be tallied and attributed to each member of the governing body.
  - May use paper ballots, but cannot be secret.
- Minutes/recordkeeping
  - Do not need to keep minutes if an audio or video record of the meeting will exist. (NOTE: City of Forest Grove requires written minutes due to record retention concerns)
  - Records of executive session discussion must be kept.
  - Minutes need not be verbatim, but must contain:
    - Roll call (including at executive sessions)
    - Motions, resolutions, actions, etc.
    - Results of votes
    - Substance of all discussions

# Legal Requirements of Public Meetings

- Attendance vs. participation
  - Public meetings law does not guarantee any person the right to participate.
  - Meant to give public the right to observe the work and deliberations of public bodies.
  - However, other statutes, rules or local laws may grant persons the right to participate:
    - Land use hearings
    - Right of way vacation hearings
    - Increase of fees or charges

## Prohibition on Private Meetings

- A quorum of a governing body may not meet in private for the purpose of deciding on or deliberating towards a decision on any matter except for [Executive Sessions]. 192.630(2)
- A decision is “any determination, action, vote or final disposition upon a motion, proposal, resolution, order, ordinance or measure on which a vote of a governing body is required, at any meeting at which quorum is present. 192.610(1)

## Prohibition on Private Meetings

- In plain English:
  - If more than a majority of your commission meets outside an official public meeting and you are discussing a matter that you will also discuss and vote in your role as a commissioner that is a public meeting violation.
  - Example: If five of seven members of the Public Safety Commission are all at the same school play and start discussing what they would like to see the City do regarding marijuana regulations (and the commission will make recommendations on that matter to the Council), those members have violated the public meetings law.

## Social Gatherings

- Can a quorum of a governing body meet in social settings?
- Yes, with a few caveats:
  - Must be purely social.
  - Governing body should avoid any discussion of official business.
  - At some point, such discussion may turn a social gathering into a meeting.
  - **NB:** attendance at a conferences, trainings, etc. excluded from the definition of “meeting.”

## Serial Communications

- Members of a governing body may violate the Oregon Public Meeting Law's prohibition on meeting in private even if a quorum never gather contemporaneously.
- A recent court decisions have held that the prohibition against meeting in private includes both when a quorum meets contemporaneously *and* when a series of non-contemporaneous communications between members of the governing body, in the aggregate, include a quorum and the purpose of the communications is to decide or deliberate on a matter that may come before the governing body.

## Serial Communications

You may violate the Oregon Public Meetings Law:

1. Non-contemporaneous communications (i.e. email, social media postings, text messaging);
2. Involving a majority of your governing body in the aggregate;
3. Discussing or deliberating on a topic that you may later discuss or deliberate in a public meeting.

## Public Meeting Best Practices

- Board members should refrain from using the “reply all” function on emails.
- Board members should refrain from “serial communications” via e-mail, telephone, face-to-face or even social media postings, such as Facebook.
- Board members should not use staff as intermediaries.



## Political Activity

- Under Oregon law, appointed officials may not promote or oppose election petitions, candidates or measures while acting in their official capacity
- Appointed officials are acting in their official capacity when they are:
  - At a meeting of the board or commission;
  - Working on a duty assigned by the board or commission;
  - Working on an official publication for the board or commission; or
  - When appearing at an event in their official capacity.

## Political Activity

- Appointed officials may use personal time--essentially time they are not acting in their role with the City—to participate in voluntary political activity.
- It is advised that appointed officials keep records when appropriate to verify any such political activity actually occurs while off-duty.

# Political Activity

- Example:
  - During a commission meeting, members of the Public Safety Advisory Committee cannot craft a letter to the editor in support of an upcoming police levy
  - Individual members of the commission, while not at a meeting, may write a letter to the editor in support of an upcoming police levy

## City of Forest Grove Charter and Council Policies

- Attendance
  - See the individual bylaws for the Board or Commission
- Staff Liaison Role
  - Bring expertise of the City to the board or commission
  - Bring back desires of the board or commission to staff/council
  - Non-voting member
  - Involved in special projects
- Council Liaison Role
  - Non-voting member of the board/commission
  - Reflect the collective goals and interests of the City Council

# Questions

- Thank you!

**FOR QUESTIONS, PLEASE CONTACT  
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